

HB 654 Testimony before the House Business and Labor Committee by Pat Keim on behalf of Altria Corporation and Phillip Morris USA

Phillip Morris does not manufacture tobacco products designed to attract under aged smokers and do not condone it.

Phillip Morris is a leader in promoting youth access prevention.

We support Federal legislation granting the FDA broad authority to regulate tobacco. Federal legislation has been introduced in Congress that including flavorings.

Our products are designed to provide a range of brand distinctions to appeal to adult choices.

This bill is titled to address youth access to tobacco but its impact reaches far beyond.

The matter of sales promotions is already in law under MCA 16-10-301 and 204. This bill is redundant with regards to below cost sales promotions.

Section 2 restricts below cost sales and promotional offers. It is not restricted to youth. It says "to members of the general public" (page 2 line 7 and 11). That means anyone including adults. As drafted, the bill arguably caps the amount of price promotions that a retailer could accept from a manufacturer at an amount equal to the retailer's margin on the promoted product. This cap would have the practical impact of reducing the amount of price promotions that many retailers currently receive in Montana, thus resulting in an increase in the retail price of cigarettes to adult consumers.

This law is likely subject to federal preemption. 15 U.S.C. §1334(b) prohibits states from adopting any requirement or prohibition based on smoking and health under State law with respect to the advertising or promotion of any cigarettes the packages of which are labeled in conformity with the provisions of this chapter.

Of particular relevance to this legislation, a federal court in Washington State recently ruled that a Washington law was preempted with respect to its prohibition on the sampling of cigarettes. See R.J. Reynolds Tobacco Company v. McKenna, Case No. C06-5233 (W.D. Wash) (Attached Order dated Sept. 25, 2006).

PM USA offers adult smokers coupons which are only redeemable at retail in a face-to-face transaction where age can be verified. In these and other ways, PM USA undertakes substantial efforts to help prevent illegal sales to minors.

Section 3 addresses so called flavored tobacco products.

PMUSA does not use candy or fruit flavoring to market its brands. Show me one Phillip Morris cigarette brand that tastes like candy or fruit. PMUSA does not make cigarettes with a distinct candy or fruit flavor

Nearly all tobacco products have some sort of flavoring ingredients to give the product a distinct tobacco brand flavor designed to appeal to ADULT smokers

Ingredients used by PMUSA include cocoa and licorice which are on the bill's banned list of flavorings. Does this mean you intend to ban Marlboro in Montana?

No reasonable person would say a Marlboro tastes like candy or fruit, but it has additives listed in the bill.

PMUSA lists its ingredients on its website

This Bill is worded so broadly that it potentially prohibits the use of certain ingredients regardless of whether or not the flavorings in fact predominate.

"Characterizing flavor"; What does that mean? It's not defined. Who will decide what that is and how will they decide if a product has a characterizing flavor, whatever that means? What may be characterizing to one person may not be to another.

Since the bill lists certain ingredients as banned, regardless of whether or not they produce a "characterizing flavor" it has the potential of causing merchants to not carry our products out of fear of prosecution regardless of the taste or intent. That could have the further result of driving brand loyal consumers to out of state sources or the internet

It seems this bill is really about marketing and about restricting tobacco marketing as much to adults as to children.

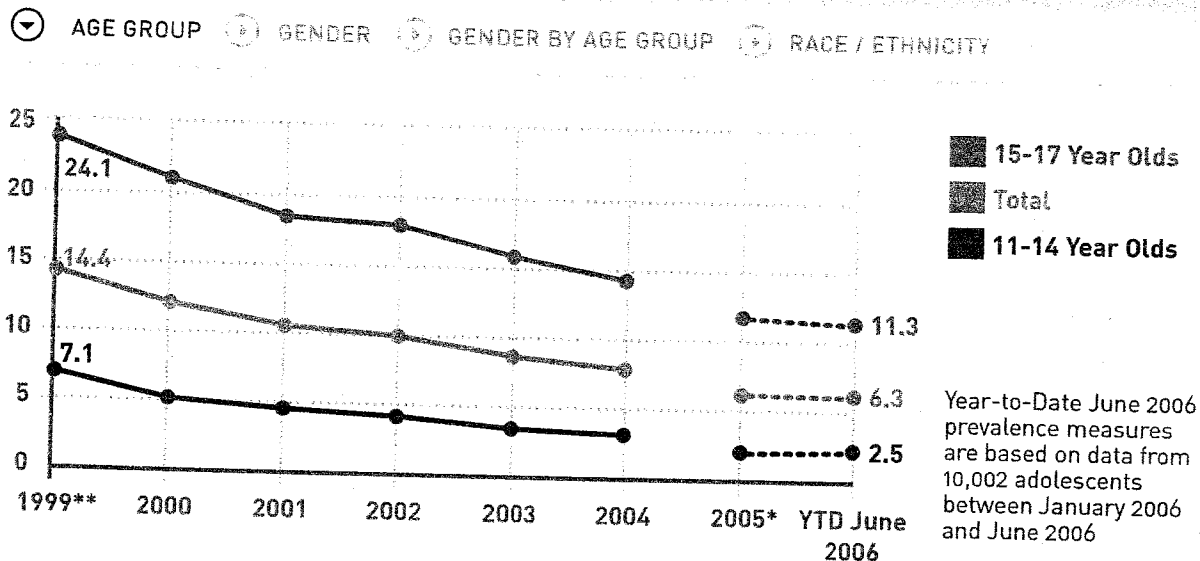
This bill is a bad bill, not because of its intent if that intent is to protect children, but because it is crafted so broadly as to potentially ban most tobacco products marketed to and consumed by adults. That has potentially significant fiscal implications as well.

It strikes at restricting adult choices by potentially banning nearly all tobacco products in Montana regardless of the target market.

TOPIC: YOUTH SMOKING PREVALENCE

CHART: PREVALENCE OF PAST 30-DAY SMOKING | page 1 of 4

PERCENT OF 11 - 17 YEAR OLDS WHO REPORTED SMOKING A CIGARETTE ON AT LEAST ONE OF THE PAST 30 DAYS*:



* From 1999 through 2004, smoking status was determined by "past month" cigarette use. In 2005, smoking status was redefined as "past 30-day" cigarette use.

** 1999 data are February through December 1999

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Our Tobacco Ingredients by Brand list identifies principal and flavor ingredients that are either commonly known or added to tobacco at levels of 0.1% or more of the weight of the tobacco rod (the column of tobacco in each cigarette) for our cigarettes sold in the U.S.

The ingredients in the Tobacco Ingredients by Brand list are identified in descending order by weight.

Marlboro Full Flavor 100's Filter Box[Tobacco](#)[Water](#)[Sugars \(Sucrose and/or Invert Sugar and/or High Fructose Corn Syrup\)](#)[Propylene Glycol](#)[Glycerol](#)[Licorice Extract](#)[Diammonium Phosphate](#)[Ammonium Hydroxide](#)[Carob Bean and Extract](#)[Cocoa and Cocoa Products](#)[Natural and Artificial Flavors](#)

[To learn more about tar & nicotine ratings for PM USA's brands, view Tar & Nicotine Ratings.](#)

Philip Morris USA manufactures its cigarettes in a variety of lengths. Cigarette length descriptors are used to identify our different products. These length descriptors (in order of increasing product length) 70mm, 72mm, Kings, 100's and 120's.

There are other ingredients added to tobacco at levels less than 0.1% in PM USA cigarettes, including the natural and artificial flavors that give each brand its unique characteristics (the brand recipe), as well as ingredients in the non-tobacco component. Please see the View Tobacco and Flavor Ingredients for All PM USA Brands tab and the View Non-Tobacco Component Ingredients for All PM USA Brands tab for composite lists that include such additional ingredients.

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Chesterfield



Chesterfield Full Flavor 100's Filter Box

60 >>

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Chesterfield Full Flavor 100's Filter Box

Tobacco

Water

Sugars (Sucrose and/or Invert Sugar and/or High Fructose Corn Syrup)

Propylene Glycol

Glycerol

Cocoa and Cocoa Products

Carob Bean and Extract

Natural and Artificial Flavors

To learn more about tar & nicotine ratings for PM USA's brands, view [Tar & Nicotine Ratings](#).

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Ingredients for All PM USA Brands](#)[Benson & Hedges](#)[Benson & Hedges Deluxe Full Flavor Kings Filter Box](#)

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Benson & Hedges Deluxe Full Flavor Kings Filter Box

Tobacco
Water
Sugars (Sucrose and/or Invert Sugar and/or High Fructose Corn Syrup)
Propylene Glycol
Glycerol
Licorice Extract
Diammonium Phosphate
Ammonium Hydroxide
Cocoa and Cocoa Products
Carob Bean and Extract
Natural and Artificial Flavors

To learn more about tar & nicotine ratings for PM USA's brands, view [Tar & Nicotine Ratings](#).

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